

2024. As confirmed in that email exchange, she said she would be willing to consider a longer extension if it was still needed.

On June 6, one day before that extension expired, Defendant Lyell's counsel called Plaintiffs' counsel and, pursuant to their prior discussion, requested an additional extension for two weeks. Defendant's counsel advised why additional time was needed. Plaintiffs' counsel advised that she might be willing to give a ten (10) day extension, but she would have to talk with others on her team. Defendant's counsel mentioned the possible need to file a motion for extension. Defendant's counsel immediately followed up with an email at 2:41 p.m. that day confirming the request for additional time. **(Exhibit B)**

On June 7, the next day and the day that the original extension was to expire, Plaintiffs' counsel sent an email to a number of Defendants' counsel saying, "Several of you have reached out and left messages for extensions of time on your discovery requests." The email requested that each of the Defendants' counsel send specific requests for extensions and the reasons therefore. **(Exhibit C)**

After receipt of this email requesting specification, with the current time for responding running out that same day, Defendant Lyell's counsel called Plaintiffs' counsel, but was unable to reach her. (This call was never returned.) Even though Defendant Lyell's counsel had already given the requested information to Plaintiffs' counsel by telephone and email the prior day, Defendant's counsel again sent an email **(Exhibit D)** with their request for an extension at 12:26 p.m.

Plaintiffs' counsel did not respond during business hours on the last day of the extension. Because of the lack of response and the expiring deadline, Defendant Lyell's counsel had to file a

Motion for Extension to more fully protect their client's rights. In this context, at this late date, Plaintiffs' counsel's continued lack of response had the same effect as a refusal. The motion was hurriedly prepared and filed at the end of the business day on Friday, June 7, 2024 (Doc. No. 171). There was no response to Defendant's request until 9:17 p.m. that evening—after the motion had to be filed. **(Exhibit E)**

Plaintiffs' Objection contains several incorrect, misleading statements. It is most certainly disingenuous and inaccurate for Plaintiffs' counsel to tell the Court that counsel for Defendant Lyell "choose not to meet and confer with Plaintiffs' counsel," and they have a "blatant disregard for Court rules." Objection ¶ 9. As supported by the attached emails, Defendant Lyell's counsel spoke with Plaintiffs' counsel by phone asking for an extension, subsequently sent two emails, and on the last day for the response, made another attempt to reach Plaintiffs' counsel by phone to try again to discuss the requested extension.

Plaintiffs' counsel did not respond after the June 6 phone call (saying she would check with others on her team) or to the email that day and did not return the phone call or make any response to the email sent (as requested) on June 7 (the last day of the extension) until late that night. This lack of response by Plaintiffs' counsel is what necessitated filing the Motion for Extension of Time at the close of business on Friday, June 7.

Defendant Lyell's counsel did not "choose not to meet and confer with Plaintiffs' counsel." They attempted to do so multiple times. It would be more accurate to say that it was Plaintiffs' counsel who chose not to meet and confer with them. Defendant certified in their Motion for Extension that "they have attempted in good faith to resolve the issues, but because of the approaching deadline [that day] and Plaintiffs' lack of agreement, this motion must be filed." That certification is correct.

Undersigned counsel does not wish to get into arguing about what transpired before the Motion for Extension that has already been granted. This response is necessary, however, because we take the meet and confer requirement seriously, not merely as a rule, but as a matter of professionalism. As detailed above, our motion was only filed because Plaintiffs' counsel declined to agree to the requested extension and proved to be unwilling or unavailable to have further discussion prior to the impending deadline.

Counsel for Defendant Lyell is grateful to the Court for granting this much needed, short two-week extension. Undersigned counsel submits this Response and the attached documents to demonstrate that statements in Plaintiffs' Objections about counsel for Defendant Lyell are not accurate or well-founded.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 14th day of June, 2024, the foregoing was served via the court's electronic filing system on the following counsel of record:

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/s/ Ronald G. Harris

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